COURT NO.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Appeal No.127 of 2001
(Old no.159 of 2000)

1. The Commissioner of Income Tax, Meerut
2. Assistant Commissioner of Income Tax, Special Circle, Dehradun

.....Appellants

Versus

M/s Halliburton Offshore Services Inc.
as agent of Mr. Chayka R.S. C/o
Arthur Anderson & Co. Maker Tower,
P.Cuffe Parade, Bombay ...Respondent

Dated: December 02, 2005

Mr. S.K. Posti, Advocate for the appellants.
Ms. Krishi Shukla, Advocate for the respondent.

Coram: Hon. P.C. Verma, J.
Hon. J.C.S. Rawat, J.

This appeal is against the order-dated 29.09.1999, passed by the Income Tax Appellate Tribunal, (Delhi Bench 'C' Delhi) in ITA No.4322 (Del) of 1993. The dispute relates to the Assessment Year 1990-91.

2. The substantial question of law raised in the appeal are as follows:

> (i) Whether on the facts and in the circumstances of the case, the learned Income Tax Appellate Tribunal was legally correct to hold that the salary paid to the assessee for the said off-period outside India was not chargeable to Indian Income Tax Act in terms of Section 9(1)(ii) of the Income Tax Act, 1961?"

(ii) Whether on the facts and in the circumstances of the case, the learned Income Tax Appellate Tribunal was legally correct to hold that no interest can be charged u/s 234-B in view of the definition of the assessed tax given in by Explanation I of I.T. Act, 1961?"

3. The first question has been decided by the Hon'ble Apex Court in Civil Appeal Nos.351-355 of 2005 "***Sedco Forex International Drill Inc. and Others Vs. Commissioner of Income Tax, Dehradun and Another, JT 2005(9) SC 639."*** In view of the aforesaid decision of the Hon'ble Apex Court, this question is answered in favour of the assessee.

4. So far as question No.2 is concerned, a Division Bench of this Court in the case of *Commissioner of Income Tax and another Vs. Sedco Forex International Drilling Co. Ltd. and connected cases reported in (2003) 264 ITR 320,* has held that that the imposition of interest under Section 234-B was not justified without hearing and without reasons.

5. In view of the above, we dismiss the appeal. Both the questions in this appeal are answered against the Revenue and in favour of the assessee.

(J.C.S. Rawat, J.) **(P.C. Verma, J.)**

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